



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2020-0054; FRL-9352-01-OCSP]

Thiabendazole; Pesticide Tolerances; Technical Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correcting amendment.

SUMMARY: EPA issued a final rule in the *Federal Register* of August 30, 2021, establishing tolerances for residues of thiabendazole in or on multiple commodities requested by the Interregional Research Project Number 4 (IR-4) under the Federal Food, Drug, and Cosmetic Act (FFDCA). That document inadvertently instructed the *Federal Register* to remove four tolerances that should have been revised and to delete two footnotes concerning other tolerances. This document corrects the final regulation. As a housekeeping measure, it also removes two tolerances that expired in 2017.

DATES: This correction is effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2020-0054, is available at <https://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave., NW., Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805.

Due to the public health emergency, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Marietta Echeverria, Acting Director, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington DC 20460-0001; main telephone number: (703) 305-7090; email address: RDFRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

The Agency included in the August 30, 2021 final rule a list of those who may be potentially affected by this action.

II. What Do These Corrections Do?

EPA issued a final rule in the *Federal Register* of August 30, 2021 (86 FR 48308) (FRL-8750-02-OCSP) that established tolerances for residues of thiabendazole in or on multiple commodities and removed some tolerances in response to a petition filed by IR-4. EPA inadvertently directed the *Federal Register* to remove entries to the table in paragraph (a)(1) of 40 CFR 180.242 for “Alfalfa, forage”; “Alfalfa, hay”; “*Brassica*, head and stem, subgroup 5A”; and “Vegetable, root (except sugarbeet), subgroup 1B”. The instructions should have directed the *Federal Register* to revise the entries for “Alfalfa, forage”; “Alfalfa, hay”; “*Brassica*, head and stem, subgroup 5A”; and “Vegetable, root (except sugarbeet), subgroup 1B” by adding a new footnote to the table indicating that these tolerances expire on February 28, 2022, which is six months after the August 30, 2021 final rule published. Maintaining these tolerances for six months is necessary to comply with the World Trade Organization’s Sanitary and Phytosanitary Measures Agreement, as explained in the August 30, 2021 final rule (see 86 FR 48313). In addition, EPA inadvertently directed the *Federal Register* to revise footnote 1 and delete footnote 2 to the table in paragraph (a)(1) of 40 CFR 180.242. The instructions should have directed the *Federal*

Register to add a new footnote indicating that the tolerances for “Alfalfa, forage”; “Alfalfa, hay”; “*Brassica*, head and stem, subgroup 5A”; and “Vegetable, root (except sugarbeet), subgroup 1B” expire on February 28, 2022.

As a housekeeping measure, EPA is also directing the *Federal Register* to remove entries to the table in paragraph (a)(1) of 40 CFR 180.242 for “Bean, dry, seed” and “Soybean” in this correction document, because these tolerances expired on March 21, 2017. Footnote 2 to the table in paragraph (a)(1) of 40 CFR 180.242 indicating that these tolerances expired on March 21, 2017 was already removed in the August 30, 2021 final rule, as described above.

EPA’s instructions in the August 30, 2021 final rule regarding tolerances for “Alfalfa, forage”; “Alfalfa, hay”; “*Brassica*, head and stem, subgroup 5A”; and “Vegetable, root (except sugarbeet), subgroup 1B” and footnote 1 to the table in 40 CFR 180.242(a)(1) were not consistent with its authority under FFDCA section 408(d)(4)(A) or with the preamble of the August 30, 2021 final rule. Therefore, EPA is rescinding those instructions and reinstating and revising the entries for “Alfalfa, forage”; “Alfalfa, hay”; “*Brassica*, head and stem, subgroup 5A”; and “Vegetable, root (except sugarbeet), subgroup 1B” in the table in paragraph (a)(1) of 40 CFR 180.242. Additionally, EPA is reinstating footnote 1 and adding a new footnote 2 to the table in paragraph (a)(1) of 40 CFR 180.242. The new footnote 2 indicates that the four tolerances expire six months from publication of today’s notice rather than on February 28, 2022 to make sure the phased tolerance change is clear and transparent.

III. Why Are These Corrections Issued as a Final Rule?

Section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(3)(B)) provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making these corrections final without prior proposal and opportunity for comment, because EPA inadvertently instructed the *Federal Register* to remove four tolerances that should have been revised and to delete two footnotes concerning other tolerances, as described above. Additionally, EPA has determined that

removing the tolerances that expired in 2017 is a housekeeping measure that has no substantive effect.

EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

IV. Do Any of the Statutory and Executive Order Review Apply to this Action?

No. For a detailed discussion concerning the statutory and executive order review refer to Unit VI. of the August 30, 2021 final rule.

V. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 20, 2022.

Marietta Echeverria,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, for the reasons stated in the preamble, EPA is correcting 40 CFR part 180 as follows:

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL

RESIDUES IN FOOD

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

2. In § 180.242, amend Table 1 to Paragraph (a)(1) by:

- i. Adding alphabetically the entries “Alfalfa, forage ²” and “Alfalfa, hay ²”;
- ii. Removing the entry for “Bean, dry, seed ²”;

iii. Adding alphabetically the entry “*Brassica*, head and stem, subgroup 5A²”;

iv. Removing the entry for “Soybean ²”;

v. Adding alphabetically, after the existing entry “Vegetable, root, except sugar beet, subgroup 1B”, an entry for “Vegetable, root (except sugarbeet), subgroup 1B ²”; and

vi. Revising footnote 1 and adding footnote 2.

The additions read as follows:

§ 180.242 Thiabendazole; tolerances for residues.

(a) * * *

(1) * * *

Table 1 to Paragraph (a)(1)

Commodity	Parts per million
Alfalfa, forage ²	0.02
Alfalfa, hay ²	0.02
* * * * *	
<i>Brassica</i> , head and stem, subgroup 5A ²	0.02
* * * * *	
Vegetable, root (except sugar beet), subgroup 1B ²	0.02
* * * * *	

¹ There are no U.S. registrations on the indicated commodity.

² This tolerance expires on July 26, 2022.

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